

**IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI**

F&C BERKLEY PARK KC, LLC,)
Plaintiff,)
v.) Case No. 4:19-cv-00787-GAF
MW BUILDERS, INC.,)
Defendant.)

MW BUILDERS, INC.'S INITIAL DISCLOSURES

Defendant, MW Builders, Inc. (“MW”), by and through its attorneys McDowell, Rice, Smith, & Buchanan, P.C., pursuant to F.R.C.P. 26(a)(1), hereby discloses the following:

**A. PERSONS LIKELY TO HAVE DISCOVERABLE INFORMATION
RELEVANT TO THE DISPUTED FACTS ALLEGED:**

The following individuals may have discoverable information relevant to disputed facts alleged with particularity in the pleadings:

1. Representatives of MW Builders, Inc., who may have knowledge of the project at issue, known as Union Berkley Riverfront Apartment, hereinafter known as “the Project”, and information related to the facts of this case, including but not limited to the following:

- a. Mark Hegarty, Vice President - Operations
- b. Todd Winnerman, President
- c. Eric Bebermeyer, Senior Project Manager - Operations
- d. James Fronk, Project Manager
- e. R. Jason Evelyn, Former President
- f. Kolby Menard, Project Manager
- g. Sam Whetstone, Project Manager
- h. Karen Witt
- i. Trevor Hammack, Project Engineer

- j. Matt Harris, Superintendent
- k. Mike Elsberry
- l. Chris Francis
- m. Brandon Stewart
- n. Natalia Steinke, Senior Estimator
- o. Ryan Grier, Estimating Manager

MW Builders provided general contractor services at the Project, and may have knowledge regarding disputed facts alleged in the pleadings.

2. Current and/or former representatives of Plaintiff F&C Berkley Park KC, LLC, One Indiana Square, Suite 3000, Indianapolis, IN 46204, including, but not limited to, David Flaherty, Mike Fox, Jeff Hammersley, Brandon Bogan, who may have discoverable information relevant to the construction of the Project, alleged construction defects, investigation of alleged construction defects, assignment of claims, repairs made, and other disputed facts alleged in the pleadings.

3. Current and/or former representatives of Cunningham Group Architecture, Inc., 201 Main Street SE, Suite 325, Minneapolis, MN 55414, including but not limited to Jeffrey A. Schoeneck, Dave Scott Howell, Erin Anderson, Paul Olson, and Dave Stahl. Cunningham Group provided architectural and design services that resulted in the design and construction of the Project, and may have information and knowledge regarding disputed facts alleged in the pleadings.

4. Current and/or former representatives of Landform, 105 South Fifth Avenue, Suite 513, Minneapolis, MN 55401, who may have discoverable information related to disputed facts alleged in the pleadings.

5. Current and/or former representatives of Kimbel Mechanical Systems, 9310 Wagon Wheel Road, Springdale, AR 72762, including but not limited to Gene Dresel and Dustin Hughes, who may have discoverable information related to disputed facts alleged in the pleadings.

6. Current and/or former representatives of Innovative Construction Services, LLC, 1617 S. Lowery Street, Oklahoma City, OK 73129, including but not limited to Robert Daugirda, who may have discoverable information related to disputed facts alleged in the pleadings.

7. Current and/or former representatives of Wolf Construction Companies, 2202 Wolf Way, West Des Moines, IA 50265, including but not limited to Reid Van Dis, who may have discoverable information related to disputed facts alleged in the pleadings.

8. Current and/or former representatives of Green Field Energy Group, Inc., 5 SW 4th Street, Lee's Summit, MO 64063 including but not limited to Kyle Greenfield, Joshua Farmer, Michael Worstell, Shelsie Greenfield, Shandra Mortensen, Len Medley, Kevin Bammes, Jake Henke, Sasha Stadnik, and Jason Hibdon, who may have discoverable information related to disputed facts alleged in the pleadings.

9. Current and/or former representatives of Flaherty & Collins Construction, 8900 Keystone Crossing, Suite 1200, Indianapolis, IN 46240, including but not limited to Jeff Hammersley, Brandon Bogan, Ryan Cronk, who may have discoverable information related to disputed facts alleged in the pleadings.

10. Any and all individuals who performed inspections on the subject property.

11. Any individual or entity designated as a non-party at fault by any party to this suit.

12. Any other engineer, architect, designer, planner or geotechnical consultants who, at any time, performed work regarding the subject property (prior to, during or subsequent to the construction of the property) or who performed an analysis regarding the subject property; and any expert and/or consultant retained or hired by any party who has performed an inspection of the subject property and evaluated its condition from the standpoint of liability or damages.

13. Any other person and/or entity listed in any other party's Rule 26 Disclosures

14. Any other person identified during discovery.

B. DOCUMENTS AND THINGS: LISTING AND DESCRIPTION OF ALL DOCUMENTS, DATA COMPILATIONS AND TANGIBLE THINGS IN THE POSSESSION, CUSTODY AND CONTROL OF THE DEFENDANT

1. MW Builders project file documents will be bates numbered, and will be provided upon request.

2. MW Builders respectfully reserves the right to disclose additional documents, data compilations, and tangible things as they become known through discovery.

C. COMPUTATION OF DAMAGES

MW Builders is seeking its costs as to Plaintiff and reserves the right to seek other damages. MW Builders will be seeking indemnity, damages and attorney's fees and costs from its subcontractors that performed work on this project. The amount of damages is preliminary, investigations are ongoing, and these damages may change during the course of discovery.

D. INSURANCE

Defendant MW Builders, Inc. is insured with Old Republic General Insurance Company, policy number A-7DG-092218-03, with limits as described in the policy, which will be provided upon request.

Respectfully submitted,

McDOWELL, RICE, SMITH & BUCHANAN, P.C.

By: /s/ Jason L. Buchanan

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ATTORNEY FOR DEFENDANTS

CERTIFICATE OF SERVICE

I hereby certify that on February 3, 2020, a true and correct copy of the foregoing was filed using the Missouri CM/ECF System, which will send notice of such filing to all counsel of record.

Daniel O. Herrington
Kenton E. Snow
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By: /s/ Jason L. Buchanan
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